IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
WRIT PETITION NO. 2202 OF 2007

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. A.V. Anturkar with Mr. Sugandh Deshmukh for Petitioner.

Mr. Vijay Mujumdar for Respondents.

CORAM : F.I. REBELLO &
R.M. SAVANT,JJ.
DATED : JUNE 14, 2007

P.C.

. Rule. Heard forthwith.

. On 27.4.2007 we had directed the Municipal Commissioner, Pune to file affidavit setting out whether it is policy of the Corporation not to grant any new structure on the foot path and whether at least from 1.1.2007, they had granted any new permissions. Pursuant to that, an affidavit dated 2.6.2007 has been filed by Mr.Mohan Attani, Incharge Municipal Commissioner. The relevant portion of the said affidavit in Para 2 reads as under :

"I say that considering increasing traffic problems in Pune City, PMC has stopped granting new licenses for closed

stalls/Carts on the roads and foot-paths in PUne City and it is policy of PMC not to grant any licenses for any new structures like closed stalls/carts on roads/footpaths. As stated in previous affidavit filed on behalf of PMC, I say that considering increasing population and aggravated traffic problems in Pune City, PMC decided to grant pitch licenses instead of closed stall licenses to eligible Cobblers vide Resolution dt. 22/5/2002. I further say that the General Body of PMC vide Resolution No. 17 dt. 27.\/4/2005 and Resolution No. 604 dt. 23/3/2006, has confirmed the earlier policy decision that instead of closed stalls pitch licenses be granted to eligible Cobblers."

. On behalf of the Petitioner the learned counsel states that considering the Government G.R. at the highest the respondent Corporation could have taken a decision on case to case basis and not in general.

. The Policy of the Government as reflected in the scheme of 5.6.2000 in the matter of setting up of stalls on the road side

provides amongst others as under :

(1) No licences be given on a road which is 24 mtrs. in width.

(2) On 9 to 20 mtrs. wide road, license to be given in such a matter that it could not cause obstruction to the traffic and public.

. From the affidavit of Mohan Attani, it is clear that the decision by the Corporation not to grant any new licence is on account of increasing population and aggravated traffic problems. The issue is not whether the matter must be considered on case to case basis but whether considering the overall development of the city, the Corporation could have taken a general policy. We have no doubt that the Corporation has such power whereby if in the opinion of the Corporation , on account of the increased population and increased traffic, there are difficulties to generally take a decision not to allow any further licences by way of stalls on foot paths/road side. We have therefore, no hesitation in rejecting the said contention raised by the Petitioner.

. While rejecting the contention, we must

however, point out that we have accepted the statement made on affidavit on behalf of the Pune Municipal Corporation through their incharge Municipal Commissioner that there is increase in population and traffic problems have been aggravated. It is therefore, clear from the said affidavit that the P.M.C. has stopped granting any stall licenses and will hereinafter not grant any new licence in terms of what has been set out in the affidavit. The relevant portion of the said affidavit has been reproduced in the earlier part of our order. If the Corporation makes any change in its policy of allowing stalls on roadside that will not be implemented without first moving this court and this court passing an appropriate order. This direction is being issued in view of the affidavit filed y the Respondent Corporation. The Corporation has made it clear that they have no difficulties in granting pitch licences to those who are eligible.

. With the above observations, Petition disposed of. Rule discharged. No order as to costs.

(R.M.SAVANT,J.) **(F.I. REBELLO,J.)**